

Tommaso Innocenti

Online Auction System Facilitating  
Flexible Terms Commodity Trading

30 May 2003

**PETITION TO MAKE SPECIAL UNDER MPEP 708.02 VIII**

11000 U.S. P. 09/866652



**A. Field of Search**

Petitioner respectfully submits that a preexamination search was personally conducted by the Atty./Agent of Record of the accompanying Application for U.S. Utility Patent, Peter Gibson, Reg. #34,605, encompassing all references available in the U.S. Patent Office, domestic & foreign, in the field defined below in accordance with the U.S. Patent Office Classification System.

**Class 705:** Data Processing: Financial Business Practice, Management Or Cost/Price Determination

**Subclass 37:** Automated Electrical Financial or Business Practice or Management Arrangement; Finance; Trading, Trading, Matching or Bidding.

**B. References Cited**

Petitioner respectfully submits that the below listed references comprise the most pertinent prior art with respect to the claimed subject matter of the accompanying application for patent known to the Applicant for the same.

#	US Patent #	Inventor	Date	Title
1)	3,581,072	Nymeyer	25 May 1971	Auction Market Computation System
2)	4,677,552	Sibley, Jr.	30 June 1987	International Commodity Trade Exchange
3)	5,168,446	Wiseman	1 Dec. 1992	System For Conducting And Processing Spot Commodity Transactions
4)	5,715,402	Popolo	3 Feb. 1998	Method And System For Matching Sellers And Buyers Of Spot Metals

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#	<i>US Patent #</i>	<i>Inventor</i>	<i>Date</i>	<i>Title</i>
5)	5,835,896	Fisher et al.	10 Nov. 1998	Method And System For Processing And Transmitting Electronic Auction Information
6)	5,842,178	Giovannoli	24 Nov. 1998	Computerized Quotation System And Method
7)	5,890,138	Godin et al.	30 Mar. 1999	Computer Auction System
8)	5,924,082	Silverman et al.	13 July 1999	Negotiated Matching System
9)	5,950,178	Borgato	7 Sep. 1999	Data Processing System And Method For Facilitating Electronic Auction Information
10)	6,151,589	Aggarwal et al.	21 Nov 2000	Methods For Performing Large Scale Auctions And Online Negotiations

**C. Copies of References Cited**

Petitioner respectfully submits that a full copy of each of the references cited herein and listed directly above in chronological order is attached hereto.

**D. Discussion of the References Cited**

1.a. Nymeyer discloses an 'auction market computation system' "for fungible goods" in which "(p)riced orders to buy are arranged in descending order by price and priced orders to sell are arranged in ascending order by price", "all orders (being) arranged in descending order by time of placement", and in which "(a)ll compatibly priced orders are then matched" with the "prices accompanying the last pair of orders to be matched (being) then used to establish a trading price for all of the matched pairs and a new market price for future transactions" which is assigned to 'at market' orders unless substantially over or under, the price of the buy or sell orders, respectively (Abstract).

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1.b Petitioner respectfully submits that the presently claimed invention, as clearly set forth in claim 1 of the accompanying Application for Patent, is:

A business method intended to facilitate flexible terms commodity trading comprising the steps of:

*providing, upon a web site accessible upon the world wide web, a proposal format in which the type of auction can be specified in addition to the commodity, quantity, price, and quality desired by a prospective buyer in completion of a submission for initiating an open bid;*

*providing, upon a web site accessible upon the world wide web, a proposal format in which the type of auction can be specified in addition to the commodity, quantity, price, and quality offered by a prospective seller in completion of a submission for initiating an open offer;*

posting upon said web site a listing for a specified lot of commodity in accordance with a completed proposal submission detailing a plurality of terms including but not restricted to delivery and payment comprising an open offer of said specified lot when initiated by a prospective seller and comprising an open bid of said specified lot when initiated by a prospective buyer;

scheduling an auction of said specified lot by posting a plurality of schedule dates including but not restricted to commencement and conclusion dates between which responses to said listing will be received;

posting upon said web site, in association with said listing, counter bids received in response to an open offer and counter offers received in response to an open bid which vary in at least one term from said plurality of terms detailed in said listing;

posting upon said web site, in association with said listing, any offer indications by said prospective seller in response to posted counter bids and any bid indications by said prospective buyer in response to posted counter offers signifying a modification of at least one term in said listing;

indicating upon said web site, in association with said listing, the matching in all said terms between any offer and any bid both concerned with said specified lot (emphasis added).

1.c Petitioner respectfully submits that, as evidenced by the emphasized phrases in claim 1 of the accompanying application in the recitation of said claim above in paragraph D.1.c, the presently

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claimed subject matter, in the language of all the claims, patentably distinguishes the same over the prior art disclosure of Nymeyer in providing both prospective buyer and prospective seller with 'a proposal format *in which the type of auction can be specified* in addition to the commodity, quantity, price, and quality' in satisfaction of 37 CFR 1.111(b) wherein the patentable novelty in view of said prior art disclosure is considered to be the provision, to both prospective buyer and prospective seller, with 'a proposal format *in which the type of auction can be specified* in addition to the commodity, quantity, price, and quality' in satisfaction of 37 CFR 1.111(c).

2.a. Sibley, Jr. discloses an 'international commodity exchange' which combines local trading exchanges located in at least two different countries with a computer network which provides current trading data from a 'central exchange host' to the local exchanges and to a number of 'user computer terminals' which subscribe to the local exchange but receive information directly from the central host and which may "transmit data representing bids and offers to any other user terminal around the world and through the local exchanges and the host exchange" (Abstract). The local exchanges must facilitate "computerized trades in markets such as the futures markets, cash market, oil market, stock market, and the securities market" (Claim 1) but trading in commodities is also disclosed (Claims 8 & 9, various drawing figures).

2.b Petitioner respectfully submits that the presently claimed invention, as clearly set forth in claim 1 of the accompanying application for patent, is (a) business method intended to facilitate flexible terms commodity trading' which includes the steps of:

*providing, upon a web site accessible upon the world wide web, a proposal format in which the type of auction can be specified in addition to the commodity, quantity, price, and quality desired by a prospective buyer in completion of a submission for initiating an open bid;*

*providing, upon a web site accessible upon the world wide web, a proposal*

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*format in which the type of auction can be specified in addition to the commodity, quantity, price, and quality offered by a prospective seller in completion of a submission for initiating an open offer* (emphasis added).

2.c Petitioner respectfully submits that, as evidenced by the emphasized phrases of claim 1 above the presently claimed subject matter, in the language of all the claims, patentably distinguishes the same over the prior art disclosure of Sibley, Jr. in providing both prospective buyer and prospective seller with 'a proposal format *in which the type of auction can be specified* in addition to the commodity, quantity, price, and quality' in satisfaction of 37 CFR 1.111(b) wherein the patentable novelty in view of said prior art disclosure is considered to be the provision, to both prospective buyer and prospective seller, of 'a proposal format *in which the type of auction can be specified* in addition to the commodity, quantity, price, and quality' in satisfaction of 37 CFR 1.111(c).

3.a Wiseman discloses a system for trading commodities by subscribers each possessing a 'trading station' "electronically coupled to (the) system to form a network" (Claim 1), each possessing all the means necessary to: display and input data; communicate; transmit a "trading quotation request signal"; decline quotation or transmit "a quotation signal setting forth a bid price and an offer price for the identified commodity, and optionally a volume amount"; receive the quotation; send back a proposal in accordance with the bid or offer terms; receive the proposal; accept a proposal "setting forth a volume amount for the transaction"; and acknowledgement of the acceptance, by alternate parties and with the latter steps or 'means' being dependent upon the preceding step or 'means'.

3.b Petitioner respectfully submits that the presently claimed invention, as clearly set forth in claim 1 of the accompanying application for patent, is (a) business method intended to facilitate flexible terms commodity trading' which includes the steps of:

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*providing, upon a web site accessible upon the world wide web, a proposal format in which the type of auction can be specified in addition to the commodity, quantity, price, and quality desired by a prospective buyer in completion of a submission for initiating an open bid;*

*providing, upon a web site accessible upon the world wide web, a proposal format in which the type of auction can be specified in addition to the commodity, quantity, price, and quality offered by a prospective seller in completion of a submission for initiating an open offer (emphasis added).*

3.c Petitioner respectfully submits that, as evidenced by the emphasized phrases of claim 1 above the presently claimed subject matter, in the language of all the claims, patentably distinguishes the same over the prior art disclosure of Wisemean in providing both prospective buyer and prospective seller with 'a proposal format *in which the type of auction can be specified* in addition to the commodity, quantity, price, and quality' in satisfaction of 37 CFR 1.111(b) wherein the patentable novelty in view of said prior art disclosure is considered to be the provision, to both prospective buyer and prospective seller, of 'a proposal format *in which the type of auction can be specified* in addition to the commodity, quantity, price, and quality' in satisfaction of 37 CFR 1.111(c).

4.a Popolo discloses a "computerized method of assisting remote users in the process of buying and selling spot metals" (Claim 1 ) which automatically converts "dimensions and asking price data entered by a seller to the preferred units of measure of a prospective buyer". This requires first "storing preferred units for each user", sending a data entry form to a seller including commodity type, metal dimension, and asking price, "modifying said form to display a set of attributes uniquely associated with the commodity selected by the seller", storing this data, and after converting into the preferred units, sending a "non-editable version of said entry form" to the buyer. Entrance of a bid by a buyer to the seller and response by the seller to the buyer via electronic mail is also disclosed.

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4.b Petitioner respectfully submits that the presently claimed invention, as clearly set forth in claim 1 of the accompanying application for patent, is (a) business method intended to facilitate flexible terms commodity trading' which includes the steps of:

*providing, upon a web site accessible upon the world wide web, a proposal format in which the type of auction can be specified in addition to the commodity, quantity, price, and quality desired by a prospective buyer in completion of a submission for initiating an open bid;*

*providing, upon a web site accessible upon the world wide web, a proposal format in which the type of auction can be specified in addition to the commodity, quantity, price, and quality offered by a prospective seller in completion of a submission for initiating an open offer (emphasis added).*

4.c Petitioner respectfully submits that, as evidenced by the emphasized phrases of claim 1 above the presently claimed subject matter, in the language of all the claims, patentably distinguishes the same over the prior art disclosure of Popolo in providing both prospective buyer and prospective seller with 'a proposal format *in which the type of auction can be specified* in addition to the commodity, quantity, price, and quality' in satisfaction of 37 CFR 1.111(b) wherein the patentable novelty in view of said prior art disclosure is considered to be the provision, to both prospective buyer and prospective seller, of 'a proposal format *in which the type of auction can be specified* in addition to the commodity, quantity, price, and quality' in satisfaction of 37 CFR 1.111(c).

5.a Fisher et al. disclose "an auction information transmission and processing system implemented as a computer program within said host and network" (Claim 1) including a 'merchandise database' with information "descriptive of a lot available for purchase by a customer", a 'bid database' with "information descriptive of a bid", 'an auction manager' in communication with the databases, and an associated 'bid validator' which receives bids. The auction manager posts a "descriptive merchandise database" and receives bids which are validated and determines whether each bid is successful. The

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'auction manager' may also use a set time to open a lot to bids and 'adjust' the information in the merchandise database by setting a minimum price for a lot.

5.b Petitioner respectfully submits that the presently claimed invention, as clearly set forth in claim 1 of the accompanying application for patent, is (a) business method intended to facilitate flexible terms commodity trading' which includes the steps of:

*providing, upon a web site accessible upon the world wide web, a proposal format in which the type of auction can be specified in addition to the commodity, quantity, price, and quality desired by a prospective buyer in completion of a submission for initiating an open bid;*

*providing, upon a web site accessible upon the world wide web, a proposal format in which the type of auction can be specified in addition to the commodity, quantity, price, and quality offered by a prospective seller in completion of a submission for initiating an open offer* (emphasis added).

5.c Petitioner respectfully submits that, as evidenced by the emphasized phrases of claim 1 above the presently claimed subject matter, in the language of all the claims, patentably distinguishes the same over the prior art disclosure of Fisher et al. in providing both prospective buyer and prospective seller with 'a proposal format *in which the type of auction can be specified* in addition to the commodity, quantity, price, and quality' in satisfaction of 37 CFR 1.111(b) wherein the patentable novelty in view of said prior art disclosure is considered to be the provision, to both prospective buyer and prospective seller, of 'a proposal format *in which the type of auction can be specified* in addition to the commodity, quantity, price, and quality' in satisfaction of 37 CFR 1.111(c).

6.a Giovannoli discloses a 'computerized quotation system and method' "for processing requests for quotation for goods and services through at least one central processing unit" possessing "filter means for selecting appropriate network members to receive said request for quotation based on filter



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conditions defined by the buyer" which "may define the class of vendors in terms of geographical location, quantity, language spoken, currency, special conditions of sale, and the like" (Abstract)

6.b Petitioner respectfully submits that the presently claimed invention, as clearly set forth in claim 1 of the accompanying application for patent, is (a) business method intended to facilitate flexible terms commodity trading' which includes the steps of:

*providing, upon a web site accessible upon the world wide web, a proposal format in which the type of auction can be specified in addition to the commodity, quantity, price, and quality desired by a prospective buyer in completion of a submission for initiating an open bid;*

*providing, upon a web site accessible upon the world wide web, a proposal format in which the type of auction can be specified in addition to the commodity, quantity, price, and quality offered by a prospective seller in completion of a submission for initiating an open offer* (emphasis added).

6.c Petitioner respectfully submits that, as evidenced by the emphasized phrases of claim 1 above the presently claimed subject matter, in the language of all the claims, patentably distinguishes the same over the prior art disclosure of Giovannoli in providing both prospective buyer and prospective seller with 'a proposal format *in which the type of auction can be specified* in addition to the commodity, quantity, price, and quality' in satisfaction of 37 CFR 1.111(b) wherein the patentable novelty in view of said prior art disclosure is considered to be the provision, to both prospective buyer and prospective seller, of 'a proposal format *in which the type of auction can be specified* in addition to the commodity, quantity, price, and quality' in satisfaction of 37 CFR 1.111(c).

7.a Godin et al. disclose a 'computer auction system' "which allows users to participate using their own computers" preferably through the internet which provides "rapid feedback of a reverse auction process and removes the user from the process once an indication to purchase has been received ...

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in combination with security of information" (Abstract).

7.b Petitioner respectfully submits that the presently claimed invention, as clearly set forth in claim 1 of the accompanying application for patent, is (a) business method intended to facilitate flexible terms commodity trading' which includes the steps of:

*providing, upon a web site accessible upon the world wide web, a proposal format in which the type of auction can be specified in addition to the commodity, quantity, price, and quality desired by a prospective buyer in completion of a submission for initiating an open bid;*

*providing, upon a web site accessible upon the world wide web, a proposal format in which the type of auction can be specified in addition to the commodity, quantity, price, and quality offered by a prospective seller in completion of a submission for initiating an open offer* (emphasis added).

7.c Petitioner respectfully submits that, as evidenced by the emphasized phrases of claim 1 above the presently claimed subject matter, in the language of all the claims, patentably distinguishes the same over the prior art disclosure of Godin et al. in providing both prospective buyer and prospective seller with 'a proposal format *in which the type of auction can be specified* in addition to the commodity, quantity, price, and quality' in satisfaction of 37 CFR 1.111(b) wherein the patentable novelty in view of said prior art disclosure is considered to be the provision, to both prospective buyer and prospective seller, of 'a proposal format *in which the type of auction can be specified* in addition to the commodity, quantity, price, and quality' in satisfaction of 37 CFR 1.111(c).

8.a Silverman et al. disclose a 'negotiated matching system' which "uses the trading and ranking information from each user to identify transactions between counterparties that are mutually acceptable" after which "the potential counterparties transmit negotiating messages to negotiate some or all terms of the transaction" (Abstract)

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8.b Petitioner respectfully submits that the presently claimed invention, as clearly set forth in claim 1 of the accompanying application for patent, is (a) business method intended to facilitate flexible terms commodity trading' which includes the steps of:

*providing, upon a web site accessible upon the world wide web, a proposal format in which the type of auction can be specified in addition to the commodity, quantity, price, and quality desired by a prospective buyer in completion of a submission for initiating an open bid;*

*providing, upon a web site accessible upon the world wide web, a proposal format in which the type of auction can be specified in addition to the commodity, quantity, price, and quality offered by a prospective seller in completion of a submission for initiating an open offer (emphasis added).*

8.c Petitioner respectfully submits that, as evidenced by the emphasized phrases of claim 1 above the presently claimed subject matter, in the language of all the claims, patentably distinguishes the same over the prior art disclosure of Silverman et al. in providing both prospective buyer and prospective seller with 'a proposal format *in which the type of auction can be specified* in addition to the commodity, quantity, price, and quality' in satisfaction of 37 CFR 1.111(b) wherein the patentable novelty in view of said prior art disclosure is considered to be the provision, to both prospective buyer and prospective seller, of 'a proposal format *in which the type of auction can be specified* in addition to the commodity, quantity, price, and quality' in satisfaction of 37 CFR 1.111(c).

9.a Borgato discloses a "system for listing and facilitating transactions involving stones categorized by weight and at least one other characteristic relating to the gem" comprising: a 'host processor' with a 'data structure' for each stone comprised of weight, the characteristic, offer price, and seller ID which arranges the data into a matrix array of categories with automatic comparison yielding the lowest offer price for a category and moving the same into "a primary offer position in

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the array category"; "a plurality of remote terminals each including a display"; "a data link between said terminals to said host processor" (Claim 1); and means necessary for communication, bidding, and effecting sales whereby the buyer and seller are informed and the stone is removed from the array.

9.b Petitioner respectfully submits that the presently claimed invention, as clearly set forth in claim 1 of the accompanying application for patent, is (a) business method intended to facilitate flexible terms commodity trading' which includes the steps of:

*providing, upon a web site accessible upon the world wide web, a proposal format in which the type of auction can be specified in addition to the commodity, quantity, price, and quality desired by a prospective buyer in completion of a submission for initiating an open bid;*

*providing, upon a web site accessible upon the world wide web, a proposal format in which the type of auction can be specified in addition to the commodity, quantity, price, and quality offered by a prospective seller in completion of a submission for initiating an open offer* (emphasis added).

9.c Petitioner respectfully submits that, as evidenced by the emphasized phrases of claim 1 above the presently claimed subject matter, in the language of all the claims, patentably distinguishes the same over the prior art disclosure of Borgato in providing both prospective buyer and prospective seller with 'a proposal format *in which the type of auction can be specified* in addition to the commodity, quantity, price, and quality' in satisfaction of 37 CFR 1.111(b) wherein the patentable novelty in view of said prior art disclosure is considered to be the provision, to both prospective buyer and prospective seller, of 'a proposal format *in which the type of auction can be specified* in addition to the commodity, quantity, price, and quality' in satisfaction of 37 CFR 1.111(c).

10.a Aggarwal et al. disclose a "method for conducting continuous auctions ... over a computer network ... comprising the following steps:"

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communicating seller information including an estimated time interval to the next auction decision;

accepting buyer information ... including a bid price, a bid entry time, a bid duration, and an intended purchase volume; and

dynamically scheduling a next auction through determining a response time ... said scheduling (being) adjusted in a manner such that buyers are retained in said auction for as lon(g) as (p)ossible (Claim 1)

to which various options are appended and which is essentially repeated in independent claim 17 for a 'computer program device' and which is again repeated in independent form in claim 33 including several of the options, i.e. "ascertaining all said buyers for whom said bid price is higher than said asking price" and "adjusting successive estimated time intervals ... to retain (these) buyers" and "dynamically selecting at least one auction winner" which is further refined and also repeated in independent claim 48 for a "computer program device", along with repetition of the refinements. A heavy reliance upon the step of "dynamically scheduling a next auction ..." is observed as this step alone distinguishes the innovation over the prior art and is also the basis for the more detailed system claimed in four different but essentially repetitive sets of claims.

10.b Petitioner respectfully submits that the presently claimed invention, as clearly set forth in claim 1 of the accompanying application for patent, is (a) business method intended to facilitate flexible terms commodity trading' which includes the steps of:

*providing, upon a web site accessible upon the world wide web, a proposal format in which the type of auction can be specified in addition to the commodity, quantity, price, and quality desired by a prospective buyer in completion of a submission for initiating an open bid;*

*providing, upon a web site accessible upon the world wide web, a proposal format in which the type of auction can be specified in addition to the commodity, quantity, price, and quality offered by a prospective seller in completion of a submission for initiating an open offer (emphasis added).*

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10.c Petitioner respectfully submits that, as evidenced by the emphasized phrases of claim 1 above the presently claimed subject matter, in the language of all the claims, patentably distinguishes the same over the prior art disclosure of Aggarwal in providing both prospective buyer and prospective seller with 'a proposal format *in which the type of auction can be specified* in addition to the commodity, quantity, price, and quality' in satisfaction of 37 CFR 1.111(b) wherein the patentable novelty in view of said prior art disclosure is considered to be the provision, to both prospective buyer and prospective seller, of 'a proposal format *in which the type of auction can be specified* in addition to the commodity, quantity, price, and quality' in satisfaction of 37 CFR 1.111(c).

**E. Summary and Request for Allowance**

1. Petitioner respectfully submits that:
  - (a) this petition to make special has been submitted accompanied by the fee set forth in 37 CFR 1.17(i);
  - (b) all claims presented in the accompanying application for patent are directed to a single invention, as evidenced by the fact that there is only one independent claim, i.e. claim 1, and that all of the other claims are properly dependent therefrom in each imposing a further restriction upon the same invention claimed in the only independent claim;
  - (c) a statement that a pre-examination search was made has been submitted herein listing the field of search by class and subclass;
  - (d) one copy each of the references deemed most closely related to the subject matter encompassed by the claims has been submitted herewith;
  - (e) a detailed discussion of the references, which discussion points out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references has been submitted herein;

and therefore that all the prerequisites stipulated under MPEP 708.02 VIII have been met by the

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present petition upon which basis accelerated examination is hereby respectfully requested.

2. Petitioner and Applicant respectfully further submits that the single invention claimed in the accompanying application for patent has been demonstrated by the detailed discussion of the references cited to be patentable over the references deemed most closely related to the subject matter encompassed by all the present claims with the particularity required by 37 CFR 1.111 (b) and (c) for which reason, in addition to the lack of indefinite language in said claims and fulfillment of all the requirements under law and regulation, said application is in full and proper condition for allowance which action is further respectfully requested.

Respectfully yours,

*Peter Gibson, Reg. #34,605*

Peter Gibson, Authorized Agent/Atty. of Record, Reg. #34,605

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